



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ART MEDIA LLC,

Plaintiff,

- against -

CHRISTOPHER BRANT,

Defendant.  
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19-cv-11218 (VM) (RWL)

**ORDER**

**ROBERT W. LEHRBURGER, United States Magistrate Judge.**

This order resolves Plaintiff's request for leave to move to dismiss Defendant's counterclaims and strike Defendant's affirmative defenses (Dkt. 25). The request for leave to move to strike the three remaining affirmative defenses (already narrowed down from eleven) is denied for substantially the reasons set forth by Defendant (Dkt. 29). As for the request for leave to dismiss, the Court finds unavailing Plaintiff's standing argument and damage/benefit argument. However, the issue as to whether purported discussions on which his counterclaim is based occurred within the 30 days allotted for delivery of a dispute notice potentially may have merit, but also can be easily resolved by a sworn statement of fact. Accordingly, no later than May 30, 2020, Defendant shall file with the Court a sworn statement setting forth, with sufficient plausibility to meet the requisite pleading standards, the timing of the discussions on which the counterclaims are based, and to the extent the discussions did not take place within the 30-day window, Defendant shall explain (in accompanying cover letter) why counterclaims should not be dismissed as a result. The Court will determine next steps after reviewing Defendant's submission.

SO ORDERED.

A handwritten signature in black ink, appearing to be 'R. Lehrburger', written over a horizontal line.

ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE

Dated: May 20, 2020  
New York, New York